

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In Re: Canute Lemon)	Chapter 13 Case No. 14-15529
Barbara Ekuibe-Lemon)	Judge Morgenstern-Clarren
Debtors)	
)	

**MOTION TO VALUE COLLATERAL
(FIRST MORTGAGE OF SELECT PORTFOLIO SERVICING, INC.)**

Now come debtors Canute Lemon and Barbara Ekuibe-Lemon, by and through counsel, and hereby request that this Honorable Court issue an order valuing the collateral of SELECT PORTFOLIO SERVICING, INC.'S (hereinafter referred to as SPS) mortgage (Loan No. xxxxxx6161) at \$5,000.00. In support thereof, debtors submit the following:

1. Debtor filed a voluntary petition under Chapter 13 of the United States Bankruptcy Code on August 27, 2014.
2. At the time of filing, debtor owned certain real property located at 11820 Forest Avenue, Cleveland, OH 44120, in Cuyahoga County, and more fully described as:

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio: And known as being Sublot No. 70, in the Rice Heights Alloment of part of Original One Hundred Acre Lots nos. 428, 429, 436 and 437, as shown by the recorded Plat in Volume 45 of Maps, Page 8 of Cuyahoga County Records, and being 45 feet front on the Southgerly side of Forest Avenue, S.E. and extending back of equal width 140 feet deep, as appears by said Plat, be the same more or less, but subject to all legal highways. PPN 129-23-001.

3. This real estate is debtors' investment property and is not used as their personal residence.
4. At the time of filing, the following encumbrances were held against debtors' real estate:
 - a. First mortgage with SPS in the amount of \$48,891.14.

5. Debtor's real estate has a fair market value of \$5,000.00 according to the appraisal attached hereto as Exhibit A and made a part hereof as if fully rewritten.
6. There is insufficient equity in debtors' real estate to fully secure the claim on the first mortgage held by SPS.
7. Accordingly, the secured first mortgage of SPS should be valued at \$5,000.00, with the remainder paid as unsecured debt.

This action is brought pursuant to 11 U.S.C §506, entitled "Determination of secured status." Section 506(a)(1) provides the valuation of collateral, and mandates that a creditor with a lien on property only has a secured claim to the extent of the value of such creditor's interest in the bankruptcy estate's interest in such property.

In this case, there is insufficient equity in debtors' property to fully secure the mortgage held by SPS. Furthermore, the cramdown and avoidance of a lien on debtor's property while in a Chapter 13 case can be accomplished without the necessity of an adversary proceeding. See *In re Sanders*, 202 B.R. 986, 988-91 (Bankr. D. Neb. 1996); *In re Vaillancourt*, 197 B.R. 464 (Bankr. M.D. Pa. 1996); and *In re Woodhouse*, 172 B.R. 1-3 (Bankr. D.R.I. 1994).

WHEREFORE, debtor respectfully requests that this Honorable Court issue an Order determining the value of the real property, determining that there is insufficient equity in debtors' real estate to fully secure the claim on the first mortgage held by SPS, determining that the remainder be paid as unsecured debt, and that upon completion of the Plan and the issuance of a discharge, the lien will be discharged.

Respectfully submitted,

/s/ Renée Heller

Renée Heller (#0062894)

Attorney for Debtors

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Cleveland, Ohio 44118
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CERTIFICATE OF SERVICE

I certify that on the 1st day of October, 2014, copies of the foregoing Motion were served by ordinary U.S. mail or electronically to the persons listed below:

Craig Shopneck, Chapter 13 Trustee
ch13shopneck@ch13cleve.com

Canute and Barbara Ekuibe-Lemon, debtors
4418 E 141st Street, Cleveland, OH 44128

SPS,
PO BOX 551170, JACKSONVILLE, FL 32255-1170

SLS
8742 Lucent Blvd., Ste 300, Littleton, CO 80129

Bank of America
PO Box 5170, Simi Valley, CA 93062-5170

/s/ **Renée Heller**
Renée Heller
Attorney for Debtors